

objections are without merit. The government and its agencies are not subject to claims for damages under *Bivens*.

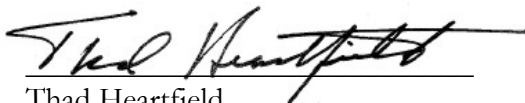
In an amended complaint, plaintiff asserts a cause of action under the Federal Tort Claims Act (FTCA). The FTCA provides a limited waiver of sovereign immunity. The statute allows the United States to be held liable to the same extent as a private employer for certain common law torts of government employees acting within the scope of their employment. 28 U.S.C. § 1346(b). A claim is not actionable in federal court unless the claimant has exhausted administrative remedies with the appropriate government agency. 28 U.S.C. § 2675(a). The FTCA bars claimant from filing suit in federal court until they have exhausted administrative remedies. *McNeil v. United States*, 508 U.S. 106, 113 (1993).

Documents submitted by plaintiff reflect that this lawsuit was filed while the administrative proceedings were pending. Although the administrative proceedings were completed after the lawsuit was filed, this court may not consider a prematurely filed FTCA action, even where no substantial progress has been made in the litigation. *Id.* at 110. Therefore, the FTCA claim must be dismissed.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with this memorandum order.

SIGNED this the 27 day of February, 2009.


Thad Heartfield
United States District Judge